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RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Note verbale dated 16 January 1995 from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva addressed to the Centre for Human Rights

The Permanent Mission of the Republic of Iraq to the United Nations Office in Geneva presents its compliments to the Centre for Human Rights and has the honour to enclose herewith a study entitled "The rights of minorities in Iraq in the light of the accusations against Iraq".

The Centre for Human Rights is kindly requested to consider this study as a document under agenda item 20 of the fifty-first session of the Commission on Human Rights.

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STUDY ON THE RIGHTS OF MINORITIES IN THE LIGHT OF THE ACCUSATIONS AGAINST IRAQ

Submitted by the Government of Iraq to the fifty-first session of the Commission on Human Rights under agenda item 20 on rights of persons belonging to national or ethnic, religious or linguistic minorities

The rights of minorities in the light of the accusations against Iraq

Introduction

The report submitted by Iraq to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-sixth session (E/CN.4/Sub.2/1994/54) comprised an ample and objective review of all the Iraqi legislative enactments and laws currently in force related to the protection of minorities. Predominant among these are the provisions of the Iraqi Constitution contained in:

1. Article 5 (b), concerning recognition of the rights of all minorities;

2. Article 7 (b), concerning recognition of the cultural rights of the Kurds;

3. Article 8 (c), concerning the right of the Kurds to enjoy autonomy;

4. Article 19 concerning recognition of the basic rights and duties of all citizens without distinction or discrimination on grounds of origin, race or religion;

5. Article 25 concerning freedom of religion and belief.

In addition there are other legislative enactments, such as:

1. Iraqi Kurdistan Autonomy Act No. 33 of 1974, which specifies the legal nature of the Autonomous Region, the official language, the language of instruction, the rights of Arab and minority citizens, and the financial bases and budget of the Autonomous Region;

2. Iraqi Kurdistan Regional Legislative Council Act No. 56 of 1980;

3. Revolution Command Council Decree No. 251 of 1972 according cultural rights to the Syriac-speaking Assyrian and Chaldean minorities;

4. Revolution Command Council Decree No. 89 of 1970 according cultural rights to the Turkomans;

5. Religious Community Welfare Ordinance No. 32 of 1981.

We note, however, that certain Western States hostile to Iraq are endeavouring to exploit United Nations organs by making allegations and accusations of human rights violations in Iraq, particularly in regard to the Kurdish, Assyrian and Turkoman minorities. An objective consideration of the matter from the political perspective shows that none of those allegations and accusations have any legal basis, nor do they relate to human rights. On the contrary, they have all been made with the aim of political interference in the internal affairs of Iraq and clearly fall within a political context illustrated in the conflict between an independent national strategy and the political and economic interests of some Western States in this region.

I. Accusations concerning alleged violations of the rights of the Kurds

A study of the Kurdish question in Iraq, for instance, reveals that this problem is nothing new; on the contrary, its origins precede the establishment of the Iraqi State. Moreover, the foundations of the modern Iraqi State were built on a set of social customs, traditions and values which were conducive to the development of a social, economic and political situation where discrimination was permissible. The legacy of foreign interference also contributed further to the development of this distressing situation. The successive Iraqi Governments since independence were able to do nothing about it until the 17 July Revolution, which established all the legislative enactments and laws devoted to securing the rights of the Kurds and other minorities that suffered from problems and the denial of their political and civil rights. This was done in the context of a national programme guaranteeing the rights of all members of society, regardless of whether they belonged to the majority or minorities.

The autonomy of the Kurds in the region of Kurdistan was thus recognized for the first time within a legal framework in the Declaration of March 1970, which acknowledged their rights within the unity of the Republic of Iraq. In the field of legislation and the application of law, the State also endeavoured to establish pillars against racial discrimination on constitutional bases whereby the rights of minorities were recognized. Hence, "the Iraqi people consists of two main national groups: the Arabs and the Kurds. This Constitution recognizes the national rights of the Kurdish people and the legitimate rights of all minorities within Iraqi unity". (art. 5 of the Constitution).

Here, however, reference should be made to the fact that the purpose of raising the Kurdish question in Iraq, which certain foreign States have always exploited in an attempt to undermine the security and stability of Iraq, is unconnected with alleged Iraqi violations of the rights of the Kurds and other minorities. Neither is it in any way attributable to a prevalence of national or racial discrimination. On the contrary, the entire question has served as a facade for interference in the internal affairs of Iraq, even though the Iraqi Government has established a firm legal and democratic basis to address the rights of minorities in Iraq and primarily those of the Kurds, taking into consideration the situation of the Kurds in countries neighbouring Iraq where their national and historic existence is being denied and where they are suffering flagrant human rights violations at a time when those same Western States are ignoring such issues for reasons relating to their economic and political interests.

Iraq is not denying, however, the obstacles which it faced in implementing autonomy. Nonetheless, it is only logical that, in any evaluation of the situation, this problem should not be separated from internal, regional and international geopolitics or the present conflicts in the region. The armed conflict in 1980 between Iran and Iraq, for instance, helped certain foreign powers to exploit the situation by lending support to Kurdish armed gangs and encouraging their cooperation with hostile forces, as well as facilitating their mission of entering the partially occupied border region of Kurdistan and carrying out subversive acts prejudicial to national security and the stability of the region. After Iraq had recaptured these

regions, hostile powers attempted to kindle prejudicial rumours that the inhabitants of those regions were in probable danger from Iraqi troops.

Following the cease-fire on 8 August 1988, Iraq proclaimed an amnesty for Kurds in Iraq and abroad and most displaced inhabitants returned to their own regions.

Calm and stability remained in the region until the Coalition States waged war against Iraq, beginning on 17 January 1991 and ending on 27 February 1992, and subsequently instigated unrest designed to ruin the national economy, destroy the infrastructure, encourage the plundering of public and private property, the perpetration of subversive acts and the killing of citizens and to unsettle security and stability. The situation then developed into something more serious when the Coalition forces began to enter Iraqi Kurdistan under the pretext of protecting the region and its inhabitants, the outcome of which was the gradual loss of sovereignty over the region by the central authority.

Some Western States then exploited this opportunity and attempted to stir up the issue of minority rights in this region by undermining the loyalty of such minorities, giving them a sense of inequality, devising ways and means to subvert their mentalities and feelings by nurturing racism and sectarianism, and pushing them in the direction that furthered the Western plan.

The objective conclusion to be drawn from this brief overview is that the political situation, the unstable security and the exceptional circumstances in the region caused by the above facts all combined to create adverse conditions that hindered the objectives which the Autonomy Act was intended to achieve.

II. Accusations of alleged violations of the rights of the Assyrians and Turkomans

As in the case of other minorities, allegations have been made of violations affecting the Assyrians and Turkomans. Most of the reports on this subject have focused on the following allegations:

Regarding the Assyrians:

Restrictions on their linguistic, cultural and proprietary rights;

Non-recognition of their identity;

The imposition of direct and indirect government restrictions on educational and cultural institutions of the religious community of Assyrian Christians;

The abolition of the Academy of the Syriac Language;

The subjection of Assyrian Christians to a policy under which instruction in the Qur'an is required as part of a programme of developing national identity and allegiance;

The destruction of their churches and villages in the northern region;

The arrest, detention and execution of leading figures among the Assyrian community;

The "pensioning-off" of over 900 Iraqi teachers in Ninawa, most of them Assyrians, at the end of August 1993, the dismissal of 100 other teachers in Kirkuk and the expulsion of a number of university students.

With regard to linguistic rights, we should like to mention that the State permits teaching of the languages of some Christian communities at appropriate places, provided it does not prejudice national security and public order. It also permits teaching of the Christian religion in schools where Christian pupils constitute 50 per cent of the total number. (For further information, see document A/49/394 of 19 September 1994, para. 12.)

At this point, we should like to draw attention to the fact that in paragraph 94 of the report which he submitted to the Commission on Human Rights (E/CN.4/1994/58), the Special Rapporteur has paraphrased article 5 of the Iraqi Constitution in such a way as to mislead anyone reading or hearing it, particularly if they are unfamiliar with the true situation in Iraq and the articles of its Constitution. He states that, according to article 5, "Iraq is composed principally of Arabs and Kurds with minorities entitled to only those rights which would not conflict with Iraqi unity", whereas the text contained in the Constitution states that "the Iraqi people consists of two main national groups: the Arabs and the Kurds. This Constitution recognizes the national rights of the Kurdish people and the legitimate rights of all minorities within Iraqi unity".

The Government is also committed to the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which was proclaimed by the United Nations in November 1981 (art. 6 of General Assembly resolution 36/55), and has recognized cultural rights by subsidizing the publication of two magazines. The first, published at Mosul, is called Al-fikr al-masihi ("Christian Thought"), and the second, published at Baghdad, is called Bayn al-nahrain ("Mesopotamia"). The State also subsidizes the cultural, recreational and sports clubs of the Assyrian, Chaldean and Syriac communities. (For further information, see document A/49/394 of 19 September 1994.)

With regard to the allegation concerning the abolition of the Academy of the Syriac Language, we should like to state that it has not been abolished, but has been incorporated into the Iraqi Academy of Science as one of its divisions. Revolution Command Council Decree No. 251 of 1972 accorded cultural rights to the Syriac-speaking Assyrian and Chaldean minorities and the State has not practised any discrimination or strict government control. This Decree has been effectively applied (refer to document A/49/394 of 19 September 1994).

The allegation concerning compulsory instruction of the Qur'an as part of a programme of developing national identity is untrue, since Iraq is constitutionally bound to respect the freedom of thought, conscience and religion of all communities without discrimination in keeping with article 18

of the International Covenant on Civil and Political Rights. This allegation is refuted by the fact that the State permits the teaching of the Christian religion in government schools.

The destruction suffered by a number of churches and villages in the northern region was a result of the Iran-Iraq war. To ensure their safety, the inhabitants, including Christians, were relocated away from the border strip adjacent to Iran within the context of the evacuation of that strip from north to south. They were relocated in other villages set up specifically for them and had replacement churches newly built for them in the new areas. This can be confirmed by reliable representatives of the various Christian communities.

The Ministry of Awqaf (Religious Endowments) has continued to cater for the welfare of Assyrian communities pursuant to Religious Community Welfare Ordinance No. 32 of 1981. To this end, institutes and seminaries for religious studies have been opened in various governorates in the country and a large number of students have been sent to study at institutes and universities throughout the world. Clergymen and monks have also been sent to obtain higher diplomas in theology, ecclesiastical law and bible studies at European universities.

The allegations concerning the arrest, persecution and execution of leading figures among the Assyrian community appear to rely on allegations circulated by hostile elements. Who are these figures, particularly if, as stated, they are leading figures? The allegation that 900 Iraqi teachers in Ninawa, most of them Assyrians, were "pensioned off" and that 100 Assyrian teachers in Kirkuk Governorate were dismissed is astonishing, since the Assyrian teachers do not amount to that number, which is exaggerated. It would be preferable to present a list of names of teachers who were "pensioned off" or dismissed. Furthermore, absolutely no Assyrian students have been expelled from universities.

It is worth pointing out that these allegations were made unobjectively and relied mostly on allegations of human rights violations in Iraq that were spread by parties hostile to Iraq.

With regard to the Turkomans:

A series of claims and allegations were also made concerning violations affecting the Turkoman minority. These allegations are summarized as restrictions imposed on their linguistic, cultural and proprietary rights. The reports also contained allegations that the identity of the Turkomans is not officially recognized, that they are not accommodated in the national censuses, that they are denied their linguistic rights, that Turkoman mullahs are forbidden to speak in the Turkish language, that the directors of Turkoman cultural societies have been replaced by members of the Arab Baath Socialist Party, that societies, institutions and properties have been officially "Arabized" and that the Turkomans are subjected to arbitrary arrests.

In this respect, we should like to state that these allegations, in common with others, contain many generalizations and are imprecise. The Government of Iraq is constitutionally bound to respect the freedom of

thought, conscience and religion of all communities without any discrimination (art. 19 of the Iraqi Constitution, which stipulates that citizens are equal before the law without distinction on grounds of race, origin, language, social category or religion). The Government has taken positive steps to enable minorities to exercise their rights without discrimination and the body of laws and statutes promulgated by the State has effectively addressed the question of minorities while maintaining the integrity and unity of Iraq. Article 5 of the Constitution guarantees the legitimate rights of all minorities, and on that basis, Turkoman citizens, like members of other minorities, are employed in various government posts in every sector and department and in different places, without discrimination.

As to their linguistic rights, Revolution Command Council Decree No. 89 of 24 November 1970 stipulates that the Turkish language should be taught in primary schools and that all teaching materials should be made available in the Turkish language. Furthermore, Turkoman mullahs are not forbidden to speak the Turkish language and none of the restrictions mentioned in the allegations have been imposed on them. (For further information, see Iraq's second periodic report on economic, social and cultural rights (E/1990/7/Add.15), para. 48.)

The claim that directors of cultural societies have been replaced by new directors who are members of the Arab Baath Socialist Party is mere fabrication, with the obvious ulterior political motive of stirring up sectarian strife. The State has encouraged Turkoman writers and intellectuals to establish their own union and has made every effort to assist them and enable them to publish their works and develop their linguistic abilities. (See Iraq's second periodic report on economic, social and cultural rights (E/1990/7/Add.15), para. 10.) The State is also taking action to protect Turkoman clerics, as well as other Muslim clerics.

The allegations contained in the reports concerning the destruction of mosques and property are inaccurate. The truth of the matter is that the State carried out a comprehensive programme of works to repair and restore a large number of buildings and mosques with a view to their preservation and maintenance. That programme was not intended to damage Turkoman properties, but simply came within the broad architectural programme that covered all areas of the country.

Similarly, social engineering projects in Iraq are not aimed at reducing the ethnic presence in historically Turkoman regions. Such accusations are baseless. Turkomans have not been removed to other areas and are free, as they always have been, to choose where they live. Arabs have no special rights or concessions that distinguish them from other citizens as far as their removal to the Turkoman areas of Kirkuk and Mosul is concerned.

Conclusion

Studied in conjunction with article 2 of the International Covenant on Civil and Political Rights, article 18 concerning freedom of religion and belief, article 19 concerning freedom of expression and opinion, article 21

concerning freedom of peaceful assembly, article 22 concerning the freedom to form associations, article 25 concerning participation in public affairs and article 27 on the rights of minorities, this paper which we have submitted on the subject of minority rights in Iraq clearly shows that, through the corpus of Iraqi legislative enactments and laws currently in force and actually applied, Iraq is indeed respecting the rights and limitations stipulated in international instruments in regard to the recognition and enjoyment of the minority rights specified therein. The basic elements and focal points of minority rights in Iraq are equality of treatment, non-discrimination, the right to exist and the right to an identity.